



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

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JUL 03 2002

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Richard Heller
312 Woodridge Lane
Wallingford, PA 19086

**Re: Required Submission of Additional Information
Lower Darby Creek Area Superfund Site - Clearview Landfill, Folcroft Landfill,
and Folcroft Landfill Annex**

Dear Mr. Heller:

On August 31, 2001, the U.S. Environmental Protection Agency ("EPA") issued a letter to you requiring the provision of information and/or documents relating to the above-referenced Site, pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, ("CERCLA"), 42 U.S.C. § 9604(e) ("Information Request"). EPA has reviewed your response, which was dated November 9, 2001, and received by EPA on November 27, 2001.

Based on your response, EPA requests additional information, as set forth in Enclosure F hereto, concerning the Clearview Landfill and its operations.

Pursuant to the authority of Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), EPA has the authority to require you, to furnish all information and documents in your possession, custody or control, or in the possession, custody or control of any of your employees or agents, which concern, refer to, or relate to hazardous substances as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), pollutants and/or contaminants as defined by Section 101(33) of CERCLA, 42 U.S.C. § 9601(33), which were transported to, stored, treated, or disposed of at the above-referenced Site.

Section 104 of CERCLA authorizes EPA to pursue penalties for failure to comply with that section or for failure to respond adequately to required submissions of information. In addition, providing false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001. The information you provide may be used by EPA in administrative, civil, or criminal proceedings.

Customer Service Hotline: 1-800-438-2474

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You must respond in writing to this required submission of information within **fifteen (15) calendar days** of your receipt of this letter. For a corporation, the response must be signed by an appropriately authorized corporate official. For all other entities, the response must be signed by an authorized official of that entity.

If, for any reason, you do not provide all information responsive to this letter, then in your answer to EPA you must: (1) describe specifically what was not provided, and (2) provide to EPA an appropriate reason why the information was not provided.

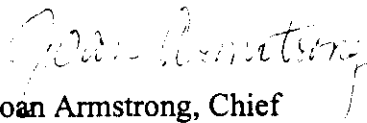
All documents and information should be sent to:

Ms. Carlyn Winter Prisk (3HS11)
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

This required submission of information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq.

If you have any questions concerning this matter, please contact Civil Investigator Carlyn Winter Prisk at (215) 814-2625, or have your attorney contact Brian Nishitani of EPA's Office of Regional Counsel at (215) 814-2675. To discuss the Site in general or the nature of the cleanup, contact Kristine Matzko, the Remedial Project Manager, at (215) 814-5719.

Sincerely,


Joan Armstrong, Chief
PRP Investigation and
Site Information Section

Enclosures: Enclosure A: Lower Darby Creek Area Site Map
 Enclosure B: Business Confidentiality Claims/Disclosure of Your Response to
 EPA Contractors and Grantees
 Enclosure C: List of Contractors that May Review Your Response
 Enclosure D: Definitions
 Enclosure E: Instructions
 Enclosure F: Questions

cc: Mr. Brian Nishitani (3RC44) EPA Region III, Office of Regional Counsel
 Ms. Gwen Pospisil (3RC44) EPA Region III, Office of Regional Counsel
 Ms. Kristine Matzko (3HS21) EPA Region III, Remedial Project Manager
 Mr. Craig Olewiler (Harrisburg) Pennsylvania Department of Environmental Protection
 Ms. April Flipse (Conshohocken) Pennsylvania Department of Environmental Protection
 James Asher Lynch, III, Esquire

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Name: LANTANA
Date: 4/17/2001
Scale: 1 inch equals 1333 feet

Location:
Caption: LANTANA

Enclosure B

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Business Confidentiality Claims

You are entitled to assert a claim of business confidentiality covering any part or all of the submitted information, in the manner described in 40 C.F.R. Part 2, Subpart B. Information subject to a claim of business confidentiality will be made available to the public only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. If a claim of business confidentiality is not asserted when the information is submitted to EPA, EPA may make this information available to the public without further notice to you. You must clearly mark such claimed information by either stamping or using any other such form of notice that such information is a trade secret, proprietary, or company confidential. To best ensure that your intent is clear, we recommend that you mark as confidential each page containing such claimed information.

Disclosure of Your Response to EPA Contractors and Grantees

EPA may contract with one or more independent contracting firms (See "Enclosure C") to review the documentation, including documents which you claim are confidential business information ("CBI"), which you submit in response to this information request, depending on available agency resources. Additionally, EPA may provide access to this information to (an) individual(s) working under (a) cooperative agreements(s) under the Senior Environmental Employee Program ("SEE Enrollees"). The SEE Program was authorized by the Environmental Programs Assistance Act of 1984 (Pub. L. 98-313). The contractor(s) and/or SEE Enrollee(s) will be filing, organizing, analyzing and/or summarizing the information for EPA personnel. The contractors have signed a contract with EPA that contains a confidentiality clause with respect to CBI that they handle for EPA. The SEE Enrollee(s) is working under a cooperative agreement that contains a provision concerning the treatment and safeguarding of CBI. The individual SEE Enrollee has also signed a confidentiality agreement regarding treatment of CBI. Pursuant to Section 104(e)(7) of CERCLA, 42 U.S.C. Section 9604(e)(7), and EPA's regulations at 40 C.F.R. Section 2.310(h), EPA may share such CBI with EPA's authorized representatives which include contractors and cooperators under the Environmental Programs Assistance Act of 1984. (See 58 Fed.Reg. 7187 (1993)). If you have any objection to disclosure by EPA of documents which you claim are CBI to any or all of the entities listed in Enclosure C, you must notify EPA in writing at the time you submit such documents.

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List of Contractors That May Review Your Response

- Daston Corporation -
Contract #68-S3-01-01
Subcontractor to Daston Corporation is:
Dynamac Corporation
- Tetra Tech EM, Inc. -
Contract #68-S3-0002
Subcontractor to Tetra Tech EM, Inc. is:
Eagle Instruments, Inc.
- Ecology and Environment, Inc. -
Contract #68-S3-0001
Subcontractor to Ecology and
Environment, Inc. is:
S & S Engineers, Inc.
- IT Corporation - Contract #68-S3-00-06
Subcontracts to IT Corporation are:
Weavertown Environmental Group
Environmental Restoration Company
- Earth Tech, Inc. - Contract #68-S3-00-07
Subcontractors to Earth Tech, Inc. are:
Industrial Marine Services, Inc.
Cline Oil
Hertz Equipment Rental
- Guardian Environmental Services, Inc. -
Contract #68-S3-99-04
- ECG Industries, Inc. -
Contract# 68-S3-99-05
Subcontractor to ECG Industries, Inc. is:
Earth Tech, Inc.
- Industrial Marine Services, Inc. -
Contract #68-S3-99-06
Subcontractors to Industrial Marine
Services, Inc. are:
Earth Tech, Inc.
Engineering and Environment, Inc.
- Tetra Tech NUS Inc. -
Contract #68-S6-3003
Subcontractors to Tetra Tech NUS Inc.
are:
Gannett Fleming, Inc.
Dynamic Corporation
C. C. Johnson & Malhotra, P.C.
- CDM-Federal Programs Corporation -
Contract #68-S7-3003
Subcontractors to CDM-Federal
Programs Corporation are:
Tetra Tech EM, Inc.
Robert Kimball & Associates
PMA & Associates
Horne Engineering
Pacific Environmental Services
- Black and Veatch Waste Science and
Technology Corporation/Tetra Tech,
Inc. - Contract #68-S7-3002
- Universe Technologies -
Contract #68-S3-99-02
- Tech Law, Inc. -
Contract #68-W-00-108

List of Cooperative Agreements

- National Association of Hispanic
Elderly - #CQ-822511
- AARP Foundation (Senior
Environmental Employment) -
#824021
#823952

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Definitions

- The term "arrangement" shall mean every separate contract or other agreement or understanding between two or more persons, whether written or oral.
- The term "documents" shall mean writings, photographs, sound or magnetic records, drawings, or other similar things by which information has been preserved and also includes information preserved in a form which must be translated or deciphered by machine in order to be intelligible to humans. Examples of documents include, but are not limited to, electronic mail and other forms of computer communication, drafts, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, summaries, pamphlets, books, invoices, checks, bills of lading, weight receipts, toll receipts, offers, contracts, agreements, deeds, leases, manifests, licenses, permits, bids, proposals, policies of insurance, logs, inter-office and intra-office communications, notations of any conversations (including, without limitation, telephone calls, meetings, and other communications such as e-mail), bulletins, printed matter, computer printouts, invoices, worksheets, graphic or oral records or representations of any kind (including, without limitation, charts, graphs, microfiche, microfilm, videotapes, recordings and motion pictures), electronic, mechanical, magnetic or electric records or representations of any kind (including, without limitation, tapes, cassettes, discs, recordings and computer memories), minutes of meetings, memoranda, notes, calendar or daily entries, agendas, notices, announcements, maps, manuals, brochures, reports of scientific study or investigation, schedules, price lists, data, sample analyses, and laboratory reports.
- The term "hazardous substance" means (a) any substance designated pursuant to section 1321(b)(2)(A) of Title 33 [of the U.S. Code], (b) any element, compound, mixture, solution, or substance designated pursuant to section 9602 of [CERCLA], (c) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (42 U.S.C. Section 6921) (but not including any waste the regulation of which under the Solid Waste Disposal Act (42 U.S.C. Section 6901 et seq.) has been suspended by Act of Congress), (d) any toxic pollutant listed under section 1317(a) of Title 33, (e) any hazardous air pollutant listed under section 112 of the Clean Air Act (42 U.S.C. Section 7412), and (f) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 2606 of Title 15 [of the U.S. Code]. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (a) through (f) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).
- The term "pollutant or contaminant" shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any

organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations in such organisms or their offspring, except that the term "pollutant or contaminant" shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under CERCLA, and shall not include natural gas, liquefied natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas).

- The term "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant), but excludes (a) any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons, (b) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine, (c) release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954 (42 U.S.C. Section 2011 et seq.), if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 170 of such Act (42 U.S.C. Section 2210), or, for the purposes of section 9604 of [CERCLA] or any other response action, any release of source, byproduct, or special nuclear material from any processing site designated under sections 7912(a)(1) or 7942(a) of [CERCLA], and (d) the normal application of fertilizer.
- The term "waste" or "wastes" shall mean and include any discarded materials including, but not limited to, trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, pollutants or contaminants, and discarded or spilled chemicals, whether solid, liquid, or sludge.
- The term "you" when referring to an incorporated entity shall mean and include the incorporated entity and its agents and representatives, including, but not limited to, persons directly authorized to transact business on the entity's behalf such as officers, directors, or partners with which the entity is affiliated, employees, accountants, engineers, or other persons who conduct business on the entity's behalf, as well as affiliated entities, including, but not limited to, partnerships, limited liability companies, divisions, subsidiaries, and holding companies.

Enclosure E

Instructions

1. You are entitled to assert a claim of business confidentiality covering any part or all of the information you submit. If you desire to assert a claim of business confidentiality, please see Enclosure B, *Business Confidentiality Claims/Disclosure of Your Response to EPA Contractors and Grantees*. You must clearly mark such information by either stamping or using any other form of notice that such information is a trade secret, proprietary, or company confidential. To ensure to the greatest extent that your intent is clear, we recommend that you mark as confidential each page containing such claimed information.
2. Please provide a separate, detailed narrative response to each question, and to each subpart of each question, set forth in this Information Request. If you fail to provide a detailed response, EPA may deem your response to be insufficient and thus a failure to comply with this Information Request, which may subject you to penalties.
3. Precede each response with the number of the question or subpart of the question to which it corresponds. For each document or group of documents produced in response to this Information Request, indicate the number of the specific question or subpart of the question to which the document(s) responds.
4. Should you find at any time after submission of your response that any portion of the submitted information is false, misrepresents the truth or is incomplete, you must notify EPA of this fact and provide EPA with a corrected written response.
5. Any terms that are used in this Information Request and/or its Enclosures that are defined in CERCLA shall have the meaning set forth in CERCLA. Definitions of several such terms are set forth in Enclosure D, *Definitions*, for your convenience. Also, several additional terms not defined in CERCLA are defined in Enclosure D. Those terms shall have the meaning set forth in Enclosure D any time such terms are used in this Information Request and/or its Enclosures.

Enclosure F

Information Requested

In your November 9, 2001, response you indicated that "After closing [of the landfill you] leased a portion of the property from the owner of the land, Ethel Heller. Lease payments involved paying of all real estate taxes." Please answer the following concerning that statement.

1. Describe in detail, and provide a copy of, the current or historic lease arrangements or agreements, between you, and/or Clearview Land Development Company, and/or any other party or individual and the following, for use of the property located at Avenue A and Darby Creek in Darby Township and formerly operated as the Clearview Landfill ("the subject property"):
 - a. Citywide Services, Inc.;
 - b. Bob O'Donnell Company;
 - c. Hercules Hose Company;
 - d. DiLorenzo Company;
 - e. Robert Cianci Vehicle Junkyard;
 - f. Roma Associates;
 - g. Piotti Construction;
 - h. C & E Transfer Companies;
 - i. Philly Fasteners, Inc; and
 - j. Any other individual or company.
2. For each of the above, please answer the following:
 - a. To whom is rent currently paid or to whom was the rent historically paid; and
 - b. What are the current or former terms of the lease arrangements or agreements?
3. Please list and describe the facts which lead you to conclude that Ethel Heller is/was the owner of the subject property. Please respond in light of the enclosed deed which lists Clearview Land Development Company as the title holder since 1958.
4. Are you (Richard Heller) currently paying, or have you historically paid, the real estate taxes on the property owned by Clearview Land Development Company? Please list the years for which you have personally paid these taxes.
5. If you (Richard Heller) are not currently paying, or have not historically paid, the real estate taxes on the subject property, please identify the party or parties that are paying or have paid the taxes and the specific years in which each party or parties did so.
6. Who are the current listed shareholders and officers of the Clearview Land Development Company?

Please answer the following questions #7-19 concerning your mother, Ethel Heller, and the Estate of Ethel Heller ("Estate").

7. On what date did Ethel Heller die?
8. Provide copies of the following tax returns for the Estate:
 - a. Federal Form 706.
 - b. State Inheritance Tax Return.
9. Identify and provide copies of all probate filings in any state for the Estate.
10. Identify and provide copies of all documents showing receipts and expenditures, assets and liabilities, profits and losses, distributions of corpus and income (including the name and social security numbers of beneficiaries), and all other records used for recording the Estate's financial affairs.
11. Identify and provide copies of all documents showing agreements between the Estate and other persons.
12. Identify and provide copies of all documents showing transactions between the Estate, its executors and personal representatives, and beneficiaries.
13. Did Ethel Heller create any Trusts or was she the beneficiary, settlor, grantor or trustee of any Trust?
14. Did Ethel Heller transfer any assets greater than \$10,000 within three years of her death?
15. What assets were available in Ethel Heller's Estate and to whom were they distributed?
16. Who was/were the executor(s) of Ethel Heller's Estate?
17. Did Ethel Heller's Estate include her stock or other interest in the Clearview Land Development Company? If so, to whom was such stock or other interest distributed? If such stock or other interest was not included in the estate, please explain why it was not, and what was done with it instead.
18. What was the last date by which creditors were permitted to file claims against the Estate?
19. Please provide a copy of the will, inventory, final accounting, and final distribution, of Ethel Heller's Estate.

Please answer the following questions #20-32 concerning your father, Edward Heller, and the Estate of Edward Heller ("Estate").

20. On what date did Edward Heller die?
21. Provide copies of the following tax returns for the Estate:
 - a. Federal Form 706.
 - b. State Inheritance Tax Return.
22. Identify and provide copies of all probate filings in any state for the Estate.
23. Identify and provide copies of all documents showing receipts and expenditures, assets and liabilities, profits and losses, distributions of corpus and income (including the name and social security numbers of beneficiaries), and all other records used for recording the Estate's financial affairs.
24. Identify and provide copies of all documents showing agreements between the Estate and other persons.
25. Identify and provide copies of all documents showing transactions between the Estate, its executors and personal representatives, and beneficiaries.
26. Did Edward Heller create any Trusts or was he the beneficiary, settlor, grantor or trustee of any Trust?
27. Did Edward Heller transfer any assets greater than \$10,000 within three years of his death?
28. What assets are/were available in Edward Heller's Estate and to whom will they be/were they distributed?
29. Who is/are the executor(s) of Edward Heller's Estate?
30. Did/does Edward Heller's Estate include his stock or other interest in the Clearview Land Development Company? If so, to whom was such stock or interest distributed or to whom will it be distributed? If such stock or other interest was not included in the Estate, please explain in detail why it was not, and what was/will be done with it instead.
31. What is/was the last date by which creditors are/were permitted to file claims against the Estate?
32. Please provide a copy of the will, inventory, final accounting, and final distribution, of Edward Heller's Estate.

Please answer the following additional questions.

33. In Schedule B, Personal Property, filed as part of your Chapter 7 bankruptcy proceedings in the Eastern District of Pennsylvania in April 2001, you list your "equitable interest" in the real property located at Avenue A and Darby Creek, Darby Township, PA. Please describe the extent of your equitable interest in the property and through what means you arrived at such an interest.
34. For your company C & E Transfer Company ("C & E") please provide the following:
- a. Current address and telephone number;
 - b. State and date of incorporation;
 - c. Description of the nature of business conducted by C & E; and,
 - d. Detailed description of your involvement with the company.
35. For your company Philly Fasteners, Inc. ("Philly Fasteners") please provide the following:
- a. Current address and telephone number;
 - b. State and date of incorporation;
 - c. Description of the nature of business conducted by Philly Fasteners; and
 - d. Detailed description of your involvement with the company.